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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,986	05/02/2006	Qingian Zeng	60,469-097; OT-5220	4969

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EXAMINER

KRUER, STEFAN

ART UNIT	PAPER NUMBER
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3654

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,986	Applicant(s) ZENG ET AL.	
	Examiner Stefan Krueer	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 7 is objected to because of the following informalities: The claim recites "said member", wherein "a member" is solely recited in **Claim 3**, yet **Claim 7** depends from **Claim 5**, which in turn depends from **Claim 2**. For purpose of prosecution, **Claim 7** will be understood to depend from **Claim 3**.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 7 and 11 –20 are rejected under 35 U.S.C. 102(b) as being anticipated by Tominaga et al (JP 05246658 A).

Re: **Claims 1 – 7 and 11**, Tominaga et al disclose an elevator car assembly (Fig. 3) comprising:

- a frame (including 1, 2 and 4 - 5), including a plurality of uprights (4) and a plank beam (2), and
- a platform (1) adjustably supported (by 3) upon said frame, said platform being selectively adjustable relative to said frame to select an amount of the platform that is positioned on each of opposite sides of the uprights for balancing said assembly (Abstract);
- at least one brace (3) mounted between said platform and at least one of said uprights, said brace stabilizing said platform in a selected position relative to said plank beam;
- wherein said brace includes a slot (12) and a corresponding one of said uprights supports (as part of overall assembly) a member (13) that is received

- in said slot, said member operative to secure said brace in a selected position relative to said upright (Abstract);
- wherein said brace comprises a steel sheet (inherent to flat portion);
 - A plurality of braces (7) mounted in a substantially V-shaped orientation between said platform and said upright;
 - wherein said braces are secured to said upright by a single fastener (upper, undesignated frame element);
 - wherein each of said braces includes said slot (12) and said member comprises a fastener at least partially received through said slots *to secure said braces to said upright*; and
 - including a plurality of fixed length braces (7) securing said platform in a selected position relative to said frame, respectively.

In reference to the claim language referring to *secure said braces to said upright*, intended use and other types of functional language must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. In re Casey, 152 USPQ 235 (CCPA 1967); In re Otto, 136 USPQ 458, 459 (CCPA 1963).

Re: **Claims 12 - 15**, Tominaga et al disclose an elevator car assembly (Fig. 3) comprising:

- a first upright (4);
- a second upright (4);
- a horizontal member secured between said first upright and said second upright (5, lower not (fully) depicted);
- a platform at least partially adjustably supported upon said horizontal member such that an amount of the platform on each of opposite sides of the uprights is selectively adjustable for balancing said assembly; and

- at least one brace (3) adjustably securing said platform into a selected position relative to at least said first upright;
- wherein said brace comprises a slot (12) and including a fastener (13) that is at least partially received through said slot to secure said brace to one of said platform or said first upright, said slot having a dimension that is larger than a dimension of said fastener to permit said brace to be longitudinally moveable relative to said fastener into a selected position.
- wherein said brace comprises a second slot (12, opposite of upright 4, towards sills 10, 11) and including a second fastener (13) that is at least partially received through said second slot to secure said brace to the other of said platform or said first upright, said slot having a dimension that is larger than a dimension of said fastener to permit said brace to be longitudinally moveable relative to said fastener into a selected position; and
- including a plurality of fixed length braces (7) securing said platform in a selected position relative to said platform and said uprights, respectively.

Re: **Claim 16**, Tominaga et al disclose wherein said platform has a plurality of layers (1, 2) separated by a plurality of isolation pads (6).

Though Tominaga et al are silent with respect to selectively distribute a platform weight over the plank beam to thereby balance the car assembly, in as much as his platform assembly extends along opposing sides of his vertical upright and his frame comprises a pair of braces (7) on opposing sides of his platform and uprights for stabilization, the construction of Tominaga et al inherently distributes a platform weight over a plank beam.

Re: **Claim 17**, Tominaga et al disclose a method of assembling a portion of an elevator car assembly, inherently, comprising the steps of:

- (1) placing a platform upon a plank beam; and
- (2) adjusting a position of the platform relative to the plank beam to selectively distribute the platform an amount of the platform on each of opposite sides of the plank beam to thereby balance the car assembly.

Re: **Claim 18**, Tominaga et al disclose adjusting a position of at least one brace extending between the platform and an upright secured to the plank beam.

Re: **Claim 19**, Tominaga et al disclose securing a cab to the platform and subsequently adjusting the position of the platform with respect to the plank beam.

Re: **Claim 20**, Tominaga et al disclose including supporting a car assembly in a hoistway and subsequently adjusting a position of the platform relative to the plank beam to thereby level the assembly within the hoistway.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8 – 9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tominaga et al.

Re: **Claims 8 – 9**, Tominaga et al disclose their brace includes a slot near an end of said brace (to the right if designator 3) that cooperates with said platform such that said end is adjustable relative to said platform as well as a second slot (12, opposite side of upright 4, towards sills 10, 11) near an opposite end of said brace that cooperates with said upright such that said opposite end is adjustable relative to said upright to alter a position of said platform; however,

Tominaga et al are silent with respect to their slots cooperating with said upright to alter a position of said platform relative to said plank beam.

Nevertheless, the ability of locating said brackets from their plank beam to their platform, thereby enabling horizontal centering of their platform with respect to their plank beam as well as their uprights, would have been obvious to one having ordinary skill in the art.

Re: **Claim 21**, Tominaga et al inherently disclose allowing the car assembly to tilt relative to guide rails (running intermediate of 4) based upon a current weight distribution of the car assembly and adjusting a position of the platform to thereby change the weight distribution of the car assembly within the hoistway (Abstract) by means of upper and lower braces (8 and 3, respectively); however,

Tominaga et al are silent with respect to altering a position of said platform relative to said plank beam.

Nevertheless, the ability of locating said brackets from their plank beam to their platform, thereby enabling horizontal centering of their platform with respect to their plank beam as well as their uprights, would have been obvious to one having ordinary skill in the art.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tominaga et al in view of Jackson et al (4,361,208).

Tominaga et al disclose their platform is adjustable relative to their frame in at least a first direction within a plane of said platform; however, Tominaga et al are silent with respect to their platform being adjustable in a second direction that is not parallel to said plane.

Attention is directed to Jackson et al who teach their platform (122) being adjustable in a second direction (pivoting about 134) that is not parallel to a plane of their platform for feature of portability and near complete assembly at the factory (Col. 1, L. 24 – 28).

It would have been obvious to one of ordinary skill in the art to modify the reference of Tominaga et al with the teaching of Jackson et al for facilitation of installation and transport.

Response to Arguments

Applicant's arguments filed 3 February 2009 with respect to **Claims 1, 12 and 17** have been considered but they are not found to be persuasive.

The rejections of the previous office action were in response to the claim language. Applicant's arguments are based on the amended claim language applied to the prior art of record; consequently, this office action comprises a detailed response to Applicant's arguments.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suchodolski et al (5,325,937) and Himes (1,907,967) are cited again for isolation and balancing of elevator car assemblies, respectively.

Weaver (2,914,286), Santo (3,356,329) and Obara (JP-06080358A) are cited for:

- adjustable braces having slots of including a fastener that is at least partially received through said slots to secure said brace, said slot having a dimension that is larger than a dimension of said fastener to permit said brace to be longitudinally moveable relative to said fastener into a selected position,

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- adjustable braces having slots of including a fastener that is at least partially received through said slots to secure said brace to the other of a platform or a first upright, said slot having a dimension that is larger than a dimension of said fastener to permit said brace to be longitudinally moveable relative to said fastener, and
- balancing of an elevator car assembly, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen can be reached on 571.272.6952. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

/Stefan Kruer/

Examiner, Art Unit 3654

3 May 2009

/John Q. Nguyen/

Supervisory Patent Examiner, Art Unit 3654